

Docket No. F-7968

Ser. No. 10/667,758

REMARKS

The USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

Claims 1-5 are pending. Applicant expresses appreciation to the Examiner for indicating that Claims 3 and 5 contain allowable subject matter and would be allowable if rewritten to include the limitations of the claims from which they depend.

Claims 1, 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamane et al. (U.S. Patent No. 6,335,116) in view of Linden, D. R. (Handbook of Batteries) where Linden is cited for teaching that a battery may have a metal case. Furthermore, Claims 1, 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kouzu et al. (U.S. Patent No. 6,211,646) in view of Linden.

Applicant has amended Claim 1 to include the limitations of now canceled Claim 2 and traverse the rejection as follows.

Regarding Yamane and Kouzu, the Examiner contends that the references disclose the claimed battery pack except for the rechargeable batteries having a metal case.

Applicant respectfully asserts that Yamane fails to teach, as already recited in Claim 1, a pair of holding brackets for holding both ends of the

Docket No. F-7968

Scr. No. 10/667,758

battery modules in a direction perpendicular to the parallel direction of the battery modules.

Further, Yamane and Kouzu fail to teach, as recited in Claim 1 as amended, a tubular cover for surrounding the periphery of the batteries that are disposed with a cooling space provided therebetween. Rather, the references merely disclose a tubular cover for covering a single battery module.

Furthermore, the Examiner contends that it would be obvious to use a metal casing to allow for effective dissipation of heat. However, the metal case of the invention prevents expansion in the sidewalls of the sealed rechargeable battery, a cross section of which is in the shape of an ellipse or a flat rectangle (see, pg. 4, lns. 23-25 of the specification). As such, the metal case and the pair of holding brackets eliminates an end plate and a binding rod or a band (pg. 5, lns. 1-7).

As the claims recite limitations not taught by the art, Applicant respectfully asserts that the claims are patentable over the art. *in re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974) (a prima facie case of obviousness is established only where the combination of cited references teaches or suggests each limitation in the claim).

Applicant respectfully requests a one month extension of time for responding to the Office Action. The fee of \$120.00 for the extension is

Docket No. F-7968

Ser. No. 10/667,758

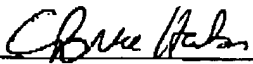
provided for in the charge authorization presented in the PTO Form 2038,
Credit Card Payment form, provided herewith.

If there is any discrepancy between the fee(s) due and the fee payment
authorized in the Credit Card Payment Form PTO-2038 or the Form PTO-2038
is missing or fee payment via the Form PTO-2038 cannot be processed, the
USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit
any excess payment to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper
form for allowance of all claims and notice to that effect is earnestly solicited.

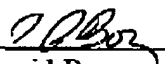
Respectfully submitted,
JORDAN AND HAMBURG LLP

By


C. Bruce Hamburg
Reg. No. 22,389
Attorney for Applicants

and,

By


T. David Bomzer
Reg. No. 48,770
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340